

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|------------------------------------|---|-----------------------------|
| IN RE: |) | |
| INTEL CORP. MICROPROCESSOR |) | |
| ANTITRUST LITIGATION |) | MDL Docket No. 05-1717-JJF |
| |) | |
| PHIL PAUL, on behalf of himself |) | |
| and all others similarly situated, |) | |
| |) | |
| Plaintiffs, |) | |
| v. |) | Civil Action No. 05-485-JJF |
| |) | |
| INTEL CORPORATION, |) | CONSOLIDATED ACTION |
| |) | |
| Defendant. |) | DM _____ |

**CERTIFICATION OF JAYNE A. PEETERS PURSUANT TO L.R. 7.1.1
IN SUPPORT OF CLASS PLAINTIFFS' REQUEST
TO COMPEL VIA TECHNOLOGIES, INC**

I, Jayne A. Peeters, Counsel for Class Plaintiffs, file this certification pursuant to Local Rule 7.1.1 and paragraph 3 of the Procedures for the Handling of Discovery Disputes Before Special Master dated June 28, 2006, and state that the following efforts and exchanges have been made by Class Plaintiffs to reach agreement on the discovery dispute that is the subject of the letter brief filed herewith:

1. On November 16, 2007, I exchanged e-mail correspondence with Jennifer Ochs, attorney for Via Technologies, Inc. (“Via”), setting up a time to meet and confer regarding Via’s objections to the business records subpoena served on Via in this litigation. A true and correct copy of that email correspondence is attached as Exhibit A.

2. On November 16, 2007, Ms. Ochs and I participated in a telephone conversation which lasted approximately fifteen minutes. In the conversation, Ms. Ochs provided me with background on Via’s chipset business and reiterated Via’s position (as stated in Via’s written

objections to the subpoena) that the Protective Order entered in this action is not sufficient to protect Via's confidential discovery materials. In particular, Ms. Ochs indicated that Via did not want "in-house counsel" or Intel's outside counsel to review the subpoenaed documents and data. Ms. Ochs also indicated that Via was concerned with producing its long range business plans.

3. On January 4 and 9, 2008, Ms. Ochs and I exchanged email correspondence continuing our meet and confer efforts regarding the Via business records subpoena. A true and correct copy of that email correspondence is attached as Exhibit B. In my January 4, 2008 email to Ms. Ochs, I advised Ms. Ochs that the Protective Order had been upheld against similar objections by another third party, Fry's Electronics, Inc. ("Fry's"), and requested that Via advise Class Plaintiffs whether it had responsive documents or data for each request in the business records subpoena. In her January 4, 2008 email response, Ms. Ochs requested that Class Plaintiffs prioritize the requests and eliminate certain requests. On January 9, 2008, I emailed Ms. Ochs advising that no requests could be eliminated and asking how Via would like to proceed.

4. On January 10, 2008, Ms. Ochs and I participated in another telephone conversation which lasted approximately fifteen minutes. In that conversation, Ms. Ochs and I went through each request in the business records subpoena to determine whether Via had responsive documents and/or data. Ms. Ochs advised me that Via had responsive documents and/or data for four of the requests, had no responsive documents or data for one of the requests and would have to investigate further to determine whether Via had responsive documents and/or data for three of the requests. Ms. Ochs also reiterated Via's issues with the Protective Order and explained Via's position that it is situated differently than Fry's because Via is a direct

competitor of Intel and the subpoenaed documents and data are extremely sensitive. Ms. Ochs also stated Via's position that only outside counsel should be allowed to review Via's confidential materials.

5. On January 29, 2008, I sent a letter to Ms. Ochs confirming our January 10, 2008 telephone conversation and Class Plaintiffs' understanding that Via stands by its objections to the Protective Order and will not produce the subpoenaed documents or data and requesting that Ms. Ochs contact me if the letter does not accurately reflect Via's position. A true and correct copy of that letter is attached as Exhibit C. Ms. Ochs did not respond.

Dated: February 29, 2008

By: /s/ Jayne A. Peeters
Jayne A. Peeters
Steyer Lowenthal Boodrookas
Alvarez & Smith LLP

Counsel for Class Plaintiffs

Exhibit A

From: Jayne Peeters
Sent: Friday, November 16, 2007 2:24 PM
To: Ochs, Jennifer
Subject: RE: In re Intel Microprocessor Litigation - business records subpoena to Via
Today at 3:00 would work great. I'll call you then. Thanks.

Jayne A. Peeters
Senior Counsel
Steyer Lowenthal Goodrookas
Alvarez & Smith LLP
One California St., 3rd Floor
San Francisco, CA 94111
Tel: 415.421.3400
Dir. Dial: 415.743.2814
Cell: 415.971.0199
jpeeters@steyerlaw.com

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From: Ochs, Jennifer [mailto:JOchs@wsgr.com]
Sent: Friday, November 16, 2007 2:07 PM
To: Jayne Peeters
Subject: RE: In re Intel Microprocessor Litigation - business records subpoena to Via

Hi Jayne –
I am available today between 3:00-4:30; Monday any time after 10:30am; or Tuesday any time after 11:30am. Please let me know your preference.

Thanks,
Jennifer

Jennifer Ochs
Wilson Sonsini Goodrich & Rosati
Physical Address: 601 California Avenue
Mailing Address: 650 Page Mill Road
Palo Alto, CA 94304-1050
Direct Dial: (650) 320-4905
Fax: (650) 565-5100

From: Jayne Peeters [mailto:jPeeters@steyerlaw.com]
Sent: Friday, November 16, 2007 9:19 AM
To: Ochs, Jennifer
Subject: In re Intel Microprocessor Litigation - business records subpoena to Via

Dear Jennifer:

We represent several of the class plaintiffs in the Intel Microprocessor Litigation. I would like to talk to you about Via Technologies objections to the business records subpoena by the class parties. Please let me know a good time for you today or early next week. Thanks very much.

Jayne A. Peeters
Senior Counsel
Steyer Lowenthal Goodrookas
Alvarez & Smith LLP
One California St., 3rd Floor
San Francisco, CA 94111
Tel: 415.421.3400
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[file:///S:/Intel Antitrust/EmailCorres/111607.JOchsReViaBusRecSub.htm](file:///S:/Intel%20Antitrust/EmailCorres/111607.JOchsReViaBusRecSub.htm)

2/22/2008

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Exhibit B

Jayne Peeters

From: Jayne Peeters
Sent: Wednesday, January 09, 2008 9:33 AM
To: Ochs, Jennifer
Subject: RE: Intel Antitrust Litigation

Hi Jennifer – We are not able to eliminate any topics at this point. Please let me know how you would like to proceed under the circumstances. Thanks very much. Jayne

Jayne A. Peeters
Senior Counsel
Steyer Lowenthal Boodrookas
Alvarez & Smith LLP
One California St., 3rd Floor
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From: Ochs, Jennifer [mailto:JOchs@wsgr.com]
Sent: Friday, January 04, 2008 2:12 PM
To: Jayne Peeters
Subject: RE: Intel Antitrust Litigation

Hi Jayne,
I am happy to meet and confer, but I will need to investigate with VIA regarding what documents they may have responsive to each individual topic. The topics cover a lot of ground -- are there particular items of most concern to you, and/or can we eliminate any topics at this juncture?

Happy New Year to you, too. Thanks,
Jennifer

From: Jayne Peeters [mailto:JPeeters@steyerlaw.com]
Sent: Friday, January 04, 2008 10:46 AM
To: Ochs, Jennifer
Subject: Intel Antitrust Litigation

Hi Jennifer,

I hope your holidays were happy.

Plaintiffs want to pursue the business records subpoena served on Via. I know you have problems with the protective order (although it has withheld objections by Frye) but I think it would be helpful to the meet and confer process to know if Via even has any responsive documents. Would you be willing to go through the specific document requests and advise us whether Via has any responsive documents for each? Please let me know.

Thanks very much. Best regards,

Jayne

Jayne A. Peeters
Senior Counsel
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2/22/2008

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2/22/2008

Exhibit C

**STEYER LOWENTHAL BOODROOKAS
ALVAREZ & SMITH LLP
ONE CALIFORNIA STREET, THIRD FLOOR
SAN FRANCISCO, CA 94111
Phone (415) 421-3400
Facsimile (415) 421-2234**

Number of Pages (incl. cover sheet) 3

DATE: January 29, 2008

TO: Ms. Jennifer Ochs

FROM: Jayne A. Peeters

FAX NO: 650-493-6811

RE: *In re Intel*
C.A. No. 05-MD1717 JJF
Jodi Salpeter, et al. v. Intel Corporation
U.S. District, Court, District of Delaware, Case No. 05-CV-00575 JJF

MESSAGE: Please see attached letter of today's date.

ORIGINAL TO FOLLOW BY MAIL: YES NO X

If there is a transmission problem, please call (415) 421-3400 immediately and ask for
Linda x2823.

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Steyer Lowenthal Boodrookas
Alvarez & Smith LLP attorneys

January 29, 2008

Via Facsimile No. 650.493.6811

Ms. Jennifer Ochs
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

Re: *In re Intel*
C.A. No. 05-MD1717 JJF
Jodi Salpeter, et al. v. Intel Corporation
U.S. District Court, District of Delaware, Case No. 05-CV-00575 JJF

Dear Jennifer:

This is a follow-up to our recent telephone conversation in which we further discussed Via Technologies, Inc.'s ("Via") position regarding the business records subpoena served on Via by plaintiffs in the above-referenced action.

Based on our conversation, I understand the following:

- Via has documents responsive to requests 1-4 (business plans, etc; annual volume of sales for each microprocessor; costs to design, etc; sales margins).
- Via may have documents responsive to requests 5-7 (quality/performance; competitive advantage; financial inducements). Please confirm whether there are such responsive documents at your earliest convenience.
- Via does not have documents responsive to request 8 (allegations in AMD complaint, etc.).

I also understand that Via stands by its written objections to the scope of the business records subpoena and does not believe the Protective Order is sufficient to protect Via's interests because it permits two in-house litigation counsel (as defined in the Protective Order) to review confidential documents produced in discovery. I advised you that Frys had similar objections to the Protective Order which were considered and overruled by the court. In fact, Judge Farnan expressly found that the Protective Order adequately protects trade secret information. Nevertheless, Via contends that it is situated differently than Frys because Via is a direct

Steyer Lowenthal Boodrookas
Alvarez & Smith LLP attorneys

Ms. Jennifer Ochs
January 29, 2008
Page 2

competitor of Intel and the information requested is extremely sensitive. Consequently, Via will not produce any responsive documents.

Please let me know if this letter does not accurately reflect Via's position. If you have any questions, please do not hesitate to call.

Sincerely,



Jayne A. Peeters
Tel: 415.971.0199
Email: jpeeters@steyerlaw.com

JAP:jp

cc: Ms. Lisa Saveri
Mr. Brent Landau

S:\Intel Antitrust\Correspondence\Ochs011808StatusLetter.wpd

*** Transmit Conf. Report ***

P.1
Line Number:1 STEYER, LOWENTHAL, LLP

Jan 29 2008 13:06

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Number of Pages (incl. cover sheet) 3

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TO: Ms. Jennifer Ochs

FROM: Jayne A. Peeters

FAX NO: 650-493-6811

RE: *In re Intel*
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Jodi Salpeter, et al. v. Intel Corporation
U.S. District Court, District of Delaware, Case No. 05-CV-00575 JJF

MESSAGE: Please see attached letter of today's date.

ORIGINAL TO FOLLOW BY MAIL: YES NO X

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Linda x2823.